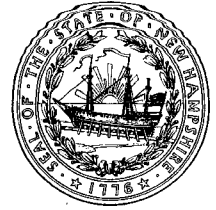




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

March 7, 2006


Franklin Pierce College
Attn: Bruce Kirsh, Vice President, FPC
20 College Road
Rindge, NH 03461-0060

Re: Administrative Order by Consent No. WD 06-006


Dear Mr. Kirsh:

Enclosed for your records is a copy of the Administrative Order by Consent in this matter executed by Harry T. Stewart, P.E., Water Division Director, and Michael P. Nolin, Department of Environmental Services Commissioner. If you have any questions, please contact me at 271-6637.

Sincerely,


COPY
Stergios K. Spanos, P.E.
Compliance Subsection

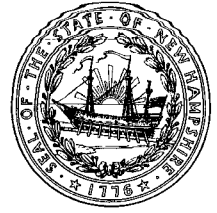
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cc:  Gretchen Hamel, Legal Unit Administrator, DES
James Martin, Public Information Officer, DES PIP Office
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Joy Hilton, USEPA
Rindge Board of Selectmen

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The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Franklin Pierce College
Attn: Bruce Kirsh, Vice President, FPC
20 College Road
Rindge, NH 03461-0060

Re: FPC Wastewater Treatment Facility
NPDES Permit No. NH0101044

**ADMINISTRATIVE ORDER
BY CONSENT
No. WD 06-006**

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Water Division to, and with the consent of Franklin Pierce College, pursuant to RSA 485-A:22. This Administrative Order by Consent is effective upon signature by all parties.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Franklin Pierce College ("FPC") is a New Hampshire non-profit corporation having a mailing address of 20 College Road, Rindge, NH 03461-0060.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 485-A:13 and related sections, DES regulates the discharge of pollutants to surface waters under a permit system. As part of this program, the Commissioner of DES has adopted Env-Ws 401-405 relating to permits and has adopted Env-Ws 1700 to establish water quality standards for the state's waters.
2. FPC owns and operates a wastewater treatment facility located at 20 College Road in Rindge, New Hampshire (hereinafter "the WWTF").
3. Operation of the WWTF is permitted under the terms of the federal National Pollutant Discharge Elimination System ("NPDES") permit number NH0101044, issued by the United States Environmental Protection Agency ("USEPA") to FPC, effective on March 1, 2003. This NPDES permit was adopted as a State discharge permit under RSA 485-A:13, I(a). The federal and state permits are collectively referred to hereinafter as the "NPDES Permit".
4. The NPDES Permit authorizes FPC to discharge treated wastewater from the WWTF to an unnamed wetland tributary to Pearly Pond, subject to specified effluent limitations, monitoring requirements, and other conditions.

5. NPDES Permit condition Part I.A.1., requires that the WWTF effluent not exceed 0.087 mg/l of aluminum as a monthly average.
6. Between March 2003 and December 2005, FPC violated the monthly average aluminum concentration limit on 17 occasions.
7. NPDES Permit condition Part I.A.1., requires that the WWTF effluent not exceed 0.10 lbs/day of aluminum as a monthly average.
8. Between March 2003 and December 2005, FPC violated the monthly average aluminum loading limit on three occasions.
9. NPDES Permit condition Part I.A.1., requires that the WWTF effluent not exceed 3.39 mg/l of ammonia as a monthly average during May 1st through October 31st, and 6.67 mg/l of ammonia as a monthly average during November 1st through April 30th.
10. Between March 2003 and December 2005, FPC violated the monthly average ammonia concentration limits on thirteen occasions.
11. NPDES Permit condition Part I.A.1., requires that the WWTF effluent not exceed 3.96 lbs/day of ammonia as a monthly average during May 1st through October 31st, and 7.79 lbs/day of ammonia as a monthly average during November 1st through April 30th.
12. Between March 2003 and December 2005, FPC violated the monthly average ammonia loading limits once.
13. NPDES Permit condition Part I.A.1., requires that the WWTF effluent not exhibit toxicity.
14. Between March 2003 and December 2005, FPC violated the toxicity limit on seven occasions.

D. DETERMINATION OF VIOLATIONS

1. Franklin Pierce College violated Part I.A.1. of its NPDES Permit by discharging wastewater from the WWTF, between March 2003 and December 2005, that did not meet aluminum limits.
2. Franklin Pierce College violated Part I.A.1. of its NPDES Permit by discharging wastewater from the WWTF, between March 2003 and December 2005, that did not meet ammonia limits.
3. Franklin Pierce College violated Part I.A.1., of its NPDES Permit by discharging wastewater from the WWTF, between March 2003 and December 2005, that did not meet toxicity limits.

E. ORDER

Based on the above findings, DES hereby orders Franklin Pierce College, and Franklin Pierce College agrees, to undertake and complete the following actions in accordance with the time schedules specified:

1. By **April 3, 2006**, submit a completed groundwater discharge permit application to DES.
2. By **September 29, 2006**, award the project for construction of a subsurface disposal system.
3. By **February 1, 2007, June 1, 2007, and October 1, 2007**, submit reports on the status of the subsurface disposal system project and evaluation of the current compliance status (i.e. permit violations and measures being implemented to be in compliance with the permit limits).
4. By **December 15, 2007**, have the subsurface disposal system in place and operating such that the discharge of treated wastewater from the WWTF to an unnamed wetland tributary to Pearly Pond is terminated.
5. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent to DES as follows, with copies to EPA:

Stergios K. Spanos
DES Water Division
P.O. Box 95
Concord, NH 03302-0095

copy to: Joy Hilton
USEPA Region 1/Water Technical Unit
1 Congress St., Suite 1100
Boston, MA 02114-2023

F. STIPULATED PENALTIES

1. For the duration of this Order, FPC agrees to pay \$1,000 for each violation of the monthly average aluminum concentration limit, the monthly average aluminum loading limit, the monthly average ammonia concentration limit, the monthly average ammonia loading limit, and for each violation of the toxicity limit.
2. FPC agrees to pay \$1,000 for each aluminum, ammonia, and toxicity sample that is not collected, analyzed and reported at the frequency specified in the NPDES Permit.
3. FPC agrees to pay \$2,000 per calendar month or portion thereof that compliance is not achieved with the deadlines specified in the Order, for each provision of the Order not in compliance. FPC must also provide the information as described in Attachment 1, at least 30 days prior to any deadline, that FPC anticipates exceeding.
4. Payment of stipulated penalties shall be due by the last day of the month following the month in which the permit limit violation, missed sampling, or missed deadline occurs. Payment shall be due without further notice from DES. If the payment is not postmarked by the last day of the month following the month in which the permit limit violation or missed sampling occurs, the stipulated penalty(ies) will double for each violation, missed sample, or missed deadline.
5. If stipulated penalties become due, payment shall be submitted to DES in the form of a certified check made payable to "Treasurer, State of New Hampshire" to DES Legal Unit - Attn: Michael Sclafani, P.O. Box 95, Concord, NH 03302-0095, with copies to Stergios K. Spanos (DES) and Joy Hilton (EPA).

6. Nothing in this agreement shall be construed to limit DES' ability to take enforcement against FPC for non-compliance, including without limitation, referral to the New Hampshire Department of Justice.

7. FPC shall continuously and diligently pursue implementation of the actions required in Section E above. FPC shall immediately notify DES of any delays in meeting the deadlines specified in Section "E." Reasonable changes to the implementation schedule shall not be unreasonably withheld by DES. If FPC misses a deadline due to circumstances beyond its control, penalties will not become due relative to that specific deadline. Failure to secure funding for the required actions or failure of a consultant to meet deadlines shall not be construed as beyond the control of FPC.

in and of itself, ^{MSD} _{MPN}

G. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, FPC agrees that this Order shall apply to and be binding upon FPC, and its directors and agrees that this Order may be entered and enforced by a court of competent jurisdiction.

2. By execution of this Administrative Order by Consent, FPC waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this Order by a court of competent jurisdiction.

Franklin Pierce College

Name:

Duly Authorized

Date

NH Department of Environmental Services

Harry T. Stewart, P.E., Director
Water Division

Date

Michael P. Nolin, Commissioner

Date

cc: Gretchen Hamel, Legal Unit Administrator, DES
Public Information Officer, DES PIP Office
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Stergios Spanos, DES
Joy Hilton, USEPA
Rindge Board of Selectmen